

117TH CONGRESS
2D SESSION

S. 3562

To amend the Federal Deposit Insurance Act to ensure that certain custodial deposits of well capitalized insured depository institutions are not considered to be funds obtained by or through deposit brokers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2022

Mr. SCOTT of South Carolina (for himself and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Federal Deposit Insurance Act to ensure that certain custodial deposits of well capitalized insured depository institutions are not considered to be funds obtained by or through deposit brokers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Minority Depository
5 Institution and Community Bank Deposit Access Act of
6 2022”.

1 **SEC. 2. LIMITED EXCEPTION FOR CUSTODIAL DEPOSITS.**

2 (a) IN GENERAL.—Section 29 of the Federal Deposit
3 Insurance Act (12 U.S.C. 1831f) is amended by adding
4 at the end the following:

5 “(j) LIMITED EXCEPTION FOR CUSTODIAL DEPOS-
6 ITS.—

7 “(1) IN GENERAL.—Custodial deposits of an el-
8 igible institution shall not be considered to be funds
9 obtained, directly or indirectly, by or through a de-
10 posit broker to the extent that the total amount of
11 such custodial deposits does not exceed an amount
12 equal to 10 percent of the total liabilities of the eligi-
13 ble institution.

14 “(2) DEFINITIONS.—In this subsection:

15 “(A) CUSTODIAL DEPOSIT.—The term
16 ‘custodial deposit’ means a deposit that would
17 otherwise be considered to be obtained, directly
18 or indirectly, by or through a deposit broker, if
19 the deposit is deposited at 1 or more insured
20 depository institutions, for the purpose of pro-
21 viding or maintaining deposit insurance for the
22 benefit of a third party, by or through any of
23 the following, each acting in a formal custodial
24 or fiduciary capacity for the benefit of a third
25 party:

1 “(i) An insured depository institution
2 serving as agent, trustee, or custodian.

3 “(ii) A trust entity controlled by an
4 insured depository institution serving as
5 agent, trustee, or custodian.

6 “(iii) A State-chartered trust company
7 serving as agent, trustee, or custodian.

8 “(iv) A plan administrator or invest-
9 ment advisor, acting in a formal custodial
10 or fiduciary capacity for the benefit of a
11 plan, as defined in section 3 of the Em-
12 ployee Retirement Income Security Act of
13 1974 (29 U.S.C. 1002).

14 “(B) ELIGIBLE INSTITUTION.—The term
15 ‘eligible institution’ means an insured deposi-
16 tory institution that accepts custodial deposits,
17 that were not deposited at the insured deposi-
18 tory institution in return for fees paid by the
19 insured depository institution pursuant to an
20 agreement with a third party, if the insured de-
21 pository institution—

22 “(i)(I) has less than \$5,000,000,000
23 in total assets as reported on the consoli-
24 dated report of condition and income as re-

1 ported quarterly to the appropriate Federal
2 banking agency; or

3 “(II)(aa) is a community development
4 financial institution, as defined in section
5 103 of the Community Development Bank-
6 ing and Financial Institutions Act of 1994
7 (12 U.S.C. 4702); or

8 “(bb) is a minority depository institu-
9 tion, as defined in section 308 of the Fi-
10 nancial Institutions Reform, Recovery, and
11 Enforcement Act of 1989 (12 U.S.C. 1463
12 note);

13 “(ii)(I) when most recently examined
14 under section 10(d) was found to have a
15 composite condition of outstanding or
16 good; and

17 “(II) is well capitalized; or

18 “(iii) has obtained a waiver pursuant
19 to subsection (c).

20 “(C) PLAN ADMINISTRATOR.—The term
21 ‘plan administrator’ has the meaning given the
22 term ‘administrator’ in section 3 of the Em-
23 ployee Retirement Income Security Act of 1974
24 (29 U.S.C. 1002).

1 “(D) WELL CAPITALIZED.—The term ‘well
2 capitalized’ has the meaning given the term in
3 section 38(b).”.

4 (b) INTEREST RATE RESTRICTION.—Section 29 of
5 the Federal Deposit Insurance Act (12 U.S.C. 1831f) is
6 amended by striking subsection (e) and inserting the fol-
7 lowing:

8 “(e) RESTRICTION ON INTEREST RATE PAID.—

9 “(1) DEFINITIONS.—In this subsection—

10 “(A) the terms ‘custodial deposit’, ‘eligible
11 institution’, and ‘well capitalized’ have the
12 meanings given those terms in subsection (j);
13 and

14 “(B) the term ‘covered insured depository
15 institution’ means an insured depository institu-
16 tion that—

17 “(i) under subsection (c) or (d), ac-
18 cepts funds obtained, directly or indirectly,
19 by or through a deposit broker; or

20 “(ii) while acting as an eligible insti-
21 tution under subsection (j), accepts custo-
22 dial deposits while not well capitalized.

23 “(2) PROHIBITION.—A covered insured deposi-
24 tory institution may not pay a rate of interest on
25 funds that, under subsection (c) or (d), are obtained,

1 directly or indirectly, by or through a deposit broker
2 or on custodial deposits that are accepted while not
3 well capitalized that, at the time the funds or custo-
4 dial deposits are accepted, significantly exceeds the
5 limit set forth in paragraph (3).

6 “(3) LIMIT ON INTEREST RATES.—The limit on
7 the rate of interest referred to in paragraph (2) shall
8 be not greater than—

9 “(A) the rate paid on deposits of similar
10 maturity in the normal market area of the cov-
11 ered insured depository institution for deposits
12 accepted in the normal market area of the cov-
13 ered insured depository institution; or

14 “(B) the national rate paid on deposits of
15 comparable maturity, as established by the Cor-
16 poration, for deposits accepted outside the nor-
17 mal market area of the covered insured deposi-
18 tory institution.”.

19 **SEC. 3. COMMUNITY DEVELOPMENT REVOLVING LOAN**

20 **FUND FOR CREDIT UNIONS.**

21 Section 130 of the Federal Credit Union Act (12
22 U.S.C. 1772c-1) is amended by striking subsection (c)
23 and inserting the following:

24 “(c) LOANS.—

1 “(1) IN GENERAL.—The Board may require
2 that any loans made from the Fund be matched by
3 increased shares in the borrower credit union.

4 “(2) ELIGIBILITY.—Only low-income credit
5 unions and minority depository institutions that are
6 federally insured credit unions are eligible for loans
7 made from the Fund.”.

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